

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF OKLAHOMA**

**DEA ROSENBAUM, individually, and  
next friend of, Z.M., a minor**

**Plaintiff,**

**vs.**

**CHARLES E. HITCHCOCK, and CRST  
INTERNATIONAL, INC. d/b/a CRST  
EXPEDITED, INC.**

**Defendants.**

**Case No. CIV-16-0380-HE**

**TRIAL DOCKET: \_\_\_\_\_**

**FINAL PRETRIAL REPORT**

All counsel who will appear at trial:

Appearing for Plaintiff: Monty L. Cain, Cain Law Office, 10415 Greenbriar Place, Oklahoma City, OK 73159

Anthony M. Laizure, Laizure Law, PLLC, 2120 E. 15<sup>th</sup> St, Tulsa, OK 74104

Stephen M. Smith, Brain Injury Law Center, 2100 Kecoughtan Rd, Hampton, VA 23661

David Holt, Brain Injury Law Center, 2100 Kecoughtan Road, Hampton, VA 23661

Appearing for Defendant: Robert T. Goolsby, James L. Gibbs, 701 N. Broadway Ave. #400, Oklahoma City, OK 73102

**Jury Trial Demanded X- Non-Jury Trial**

1. **BRIEF PRELIMINARY STATEMENT:**

Facts: On July 16, 2014, at 10:12 p.m., a tractor trailer driven by Defendant Charles Hitchcock collided with a Mazda M31 in which Dea Rosenbaum and he minor child were sitting. The collision happened on a bridge on I-40, near mile marker 105 in Canadian County, Oklahoma.

Plaintiff's position: Defendant Charles E. Hitchcock was acting within the course and scope of his employment with Defendant CRST Expedited, Inc. Defendant Hitchcock was negligent because he saw or should have seen from about a mile away that Ms. Rosenbaum's car was disabled on the bridge. Despite that, Defendant Hitchcock continued to drive his tractor trailer at about 65 miles per hour. Defendant Hitchcock did not slow down and stop before hitting Ms. Rosenbaum's car. Defendant Hitchcock did not change lanes to avoid hitting Ms. Rosenbaum's car. Defendant Hitchcock acted in

reckless disregard for the safety of Ms. Rosenbaum. Defendant Hitchcock was grossly negligent. Defendant CRST conducted an investigation and determined that Defendant Hitchcock was at fault because he was inattentive and hit Ms. Rosenbaum's car from the rear.

Defendants' position: The Defendants admit that on July 16, 2014 that Charles E. Hitchcock, while in the scope and course of his employment with CRST Expedited, Inc., struck Plaintiff's vehicle from behind. At the time of the accident, Plaintiff's vehicle had become disabled on a bridge with no shoulder. Mr. Hitchcock was unable to timely change lanes and struck Plaintiff's vehicle, which was stopped partially in the lane of travel. Defendants admit Mr. Hitchcock was negligent. Defendants dispute the extensive nature and extent of Plaintiff's claim of both economic and non-economic damages.

2. JURISDICTION. Diversity Jurisdiction pursuant to 28 U.S. §1332(a)(1)
3. STIPULATED FACTS. List stipulations as to all facts that are not disputed, including jurisdictional facts.

Plaintiff:

- A. Plaintiff is a citizen of the State of Oklahoma.
- B. Defendant Hitchcock is a citizen of the State of Ohio.
- C. Defendant CRST Expedited, Inc. is a corporation with its principal place of business in the State of Iowa.
- D. At the time of the collision, the Defendant Hitchcock was acting within the course and scope of his employment with Defendant CRST Expedited, Inc.

Defendant: Defendants are willing to stipulate to liability for this accident. Plaintiffs' attorneys thus far are unwilling to accept this stipulation.

4. LEGAL ISSUES.

Plaintiff:

- A. The cap on non-economic damages imposed by 23 O.S. § 61.2 (D) "the statute" violates the Oklahoma Constitution's Article 7, §15 which requires a jury to return a general verdict and prohibits the use of interrogatories required by the statute.
- B. The statute violates Art. 2, § 19 of the Oklahoma Constitution that provides the right to jury trial "shall be and remain inviolate" because the right to jury trial extends to the determination of damages.
- C. The statute violates Art. 2, §6 of the Oklahoma Constitution, which provides for open access to the Courts and prohibits legislation that denies the constitutional guarantee of a fundamental right such as access to the courts.
- D. The statute violates Art. 2, § 7 of the Oklahoma Constitution, the Due Process Clause, which has been held to be the equivalent to the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution. The statute discriminates on its face against those

persons, such as Dea Rosenbaum, who sustain serious and permanent injuries because the statute limits their ability to recover fully for those injuries, whereas those persons who suffer very minor injuries are entitled to be compensated in full for their injuries.

E. The statute violates Art. 5, § 46 of the Oklahoma Constitution because it is a “special law” that creates preferences and establishes inequality by limiting its application to only a select group of plaintiffs, those with the most severe injuries and most in need of compensation.

F. The statute violates Art. 4, § 1 of the Oklahoma Constitution, the separation of powers, by allowing the legislature to impose an automatic remittitur on a jury’s verdict without regard to the bases for that verdict. It allows the legislature to sit as the proverbial 13<sup>th</sup> juror and overrule the collective wisdom of the other 12 jurors who actually heard the evidence in the case.

G. The testimony of Mark Sexton is inadmissible pursuant to F.R.E. 702.

H. Defendant Hitchcock was grossly negligent.

I. Defendant Hitchcock acted in reckless disregard for the safety of Dea Rosenbaum.

Defendants:

A. Whether or not the testimony of Plaintiff’s medical expert, Dr. Gregory O’Shanick, is admissible under Daubert analysis. F.R.E. 702;

B. Whether or not the testimony of Plaintiff’s medical expert, Dr. Shawn Smith, is admissible under Daubert analysis. F.R.E. 702;

C. Whether or not the testimony of Plaintiff’s accident reconstruction expert, Ronald Blevins, is admissible under Daubert analysis. F.R.E. 702; and

D. Whether or not the testimony of Plaintiff’s economic experts, Lon Huff and Dr. William Clark, is admissible under Daubert analysis. F.R.E. 702;

E. Defendants deny these facts will rise to the level such that a punitive damage instruction should be given and/or awarded to Plaintiff;

F. Defendants will assert that the statutory cap on non-economic damages is constitutional.

5. CONTENTIONS AND CLAIMS FOR DAMAGES OR OTHER RELIEF SOUGHT.

A. Plaintiff

Grounds for Recovery	Applicable Statute, Ordinance,
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		<b>Common Law Rule</b>
1.	Defendant Hitchcock did not use ordinary care to prevent injury to Dea Rosenbaum	Common law (OUJI 10.1)
2.	Defendant Hitchcock did not exercise ordinary care in keeping a lookout consistent with the safety of other persons.	Common law (OUJI 10.2)
3.	Defendant Hitchcock did not devote full time and attention to driving.	47 O.S. § 11-901b
4.	Defendant Hitchcock drove his vehicle in a careless or wanton manner without regard for the safety of Dea Rosenbaum	47 O.S. § 11-901 (A)
5.	Defendant Hitchcock did not drive his truck at a careful and prudent speed not greater than nor less than is reasonable and proper, having due regard to the traffic, surface and width of the highway and any other conditions then existing. No person shall drive any vehicle on a highway at a speed greater than will permit the driver to bring it to stop within the assured clear distance ahead.	47 O.S. § 11-801 (A)
6.	Defendant Hitchcock has been guilty of reckless disregard for the rights of others	23 O.S. § 9.1
7.	Defendant Hitchcock was grossly negligent	25 O.S. § 6

<b>Damages or Relief Sought</b>		<b>Amount</b>
1.	Physical and mental pain and suffering, past and future; physical condition immediately before and after the collision; nature and extent and permanency of injuries; physical impairment; loss of enjoyment of life	\$5,000,000
2.	Impairment to earning capacity	\$586,094 - \$1,168,688
3.	Future medical expenses	\$241,747
4.	Punitive damages	Limited by 23 O.S. §9.1

**B. Defendant**

1. Contention 1: Defendants admit Mr. Hitchcock was negligent in causing the accident. With that, CRST Expedited, Inc. is vicariously responsible for his actions;

2. Contention 2: These Defendants deny the nature and extent of Plaintiff's economic and non-economic damages to include some of her past, current and future medical bills and expenses, any and all claims of lost wages or earnings capacity, both past, present and future, and the nature and extent of any pain and suffering;

3. Contention 3: Plaintiff failed to mitigate her damages;

4. Contention 4: Defendants' deny Mr. Hitchcock was grossly negligent;

5. Contention 5: Defendants deny Plaintiff is entitled to punitive damages; and

6. Contention 6: Plaintiffs non-economic damages are limited by 23 O.S. §61.2(B).

6. EXHIBITS. The following exclusionary language **MUST** be included:

Unlisted exhibits will not be admitted unless, by order of the court, the final pretrial order is amended to include them.

A. Plaintiff:

NO.	DESCRIPTION	OBJECTION	FEDERAL RULE OF EVIDENCE RELIED UPON
<b>EXHIBITS PLAINTIFF IS LIKELY TO USE AT TRIAL</b>			
1.	CRST 00001-000005: CRST First Report of the wreck	Prejudicial, Hearsay, Not Best Evidence and Cumulative.	802 and 403
2.	CRST 000011-000013: Photos of semi and Mazda at the scene	Prejudicial, Cumulative and Hearsay.	802 and 403
3.	CRST 000014-000033: Photos of Mazda taken by CRST	Prejudicial, Cumulative and Hearsay.	802 and 403
4.	CRST 000036-000051: Scene photos taken by Leonard Lipps	Prejudicial, Cumulative and Hearsay.	802, 401, 402, 411
5.	CRST 000215-000265: Collision Tracking Report, including photos of vehicles taken at the scene the night of the crash and photos of the tractor-trailer	Prejudicial, Cumulative and Hearsay.	802 and 403
6.	CRST 000266-00093: CRST Driver Handbook (Plaintiff does not anticipate admitting the entire handbook into evidence but may use selected pages in case in chief or for impeachment purposes)	Relevancy	401 and 402
7.	CRST 000695: Over the Road Driver Job Description	Hearsay and Relevancy	802, 401, and 402
8.	CRST 000985-000995: Incident Details—Omnitracs Critical Event Reporting		
9.	Aerial Photo of Scene provided by Ron Blevins		
10.	Delorme Maps provided by Ron Blevins		

11.	OHP Scene Diagram	Hearsay and Narrative.	802 and 403
12.	Photos of Mazda taken by Ron Blevins	Hearsay and Cumulative.	802 and 403
13.	Photos of Scene taken by Ron Blevins	Hearsay and Cumulative Relevancy	802, 401, 402 and 403.
14.	Photos of Bridge Wall taken by Ron Blevins	Hearsay and Cumulative Relevancy	802, 401, 402 and 403.
15.	Recording of 911 calls—on an audio CD	Hearsay and Relevancy	802, 401, 402,
16.	Dr. O'Shanick's Rule 26 report	Hearsay, Cumulative and Not the Best Evidence	802 and 403.
17.	Photographs of brain and skull models	Hearsay and Cumulative	802 and 403.
18.	Illustration entitled "Mechanism of Brain Injury"	Hearsay and Cumulative.	802 and 403.
19.	A video animation entitled "Neuron Suicide and Murder: Traumatic Axonal Injury Resulting in Delayed and/or Progressive Symptoms"	Prejudicial, Hearsay, Cumulative, Relevancy, Speculation and Duplications	802, 401, 402 and 403.
20.	A video animation entitled "Cascade Effect on Neuronal Loss"	Prejudicial, Hearsay, Cumulative, Relevancy, Speculation and Duplications	802, 401, 402 and 403.
21.	Illustration of rotational forces inside the brain	Prejudicial, Hearsay, Cumulative, Relevancy, Speculation and Duplications	802, 401, 402 and 403.
22.	Illustration of axon damage	Prejudicial, Hearsay, Cumulative, Relevancy, Speculation and Duplications	802, 401, 402 and 403.
23.	Illustration entitled "Location of Brain and Cranial Nerve Functions"	Prejudicial, Hearsay, Cumulative, Relevancy, Speculation and Duplications	802, 401, 402 and 403.
24.	Illustration entitled "Closed Head Injury"	Prejudicial, Hearsay, Cumulative, Relevancy,	802, 401, 402 and 403.

		Speculation and Duplications	
25.	Illustration entitled “Cell Injury Resulting in Spread of Cell Death”	Prejudicial, Hearsay, Cumulative, Relevancy, Speculation and Duplications	802, 401, 402 and 403.
26.	Illustration of a contrecoup injury	Prejudicial, Hearsay, Cumulative, Relevancy, Speculation and Duplications	802, 401, 402 and 403.
27.	Illustration of a contrecoup effect	Prejudicial, Hearsay, Cumulative, Relevancy, Speculation and Duplications	802, 401, 402 and 403.
28.	PowerPoint presentation entitled “Neural Pathway for Visual Interpretation of Written Language & Math and for Spoken Response, Neural Pathway for Eye Movement/Reading, Neural Pathway for Hearing & Speaking, Neural Pathway for Balance, and Combined Neural Pathways.	Prejudicial, Hearsay, Cumulative, Relevancy, Speculation and Duplications	802, 401, 402 and 403.
29.	Demonstrative Models of the Skull and Brain	Prejudicial, Hearsay, Cumulative, Relevancy, Speculation and Duplications	802, 401, 402 and 403.
30.	Anatomy of the Brain” Demonstrative Aid	Prejudicial, Hearsay, Cumulative, Relevancy, Speculation and Duplications	802, 401, 402 and 403.
31.	Rotational View of Skull and Brain Demonstrative Aid	Prejudicial, Hearsay, Cumulative, Relevancy, Speculation and Duplications	802, 401, 402 and 403.
32.	Cell Injury Resulting in Cell Death” Demonstrative Aid	Prejudicial, Hearsay, Cumulative, Relevancy, Speculation and Duplications	802, 401, 402 and 403.
33.	Closed Head Injury” Demonstrative Aid	Prejudicial, Hearsay, Cumulative, Relevancy, Speculation and	802, 401, 402 and 403.

		Duplications	
34.	“Location of Brain and Cranial Nerve Functions” Demonstrative Aid	Prejudicial, Hearsay, Cumulative, Relevancy, Speculation and Duplications	802, 401, 402 and 403.
35.	Axon Damage Demonstrative Aid	Prejudicial, Hearsay, Cumulative, Relevancy, Speculation and Duplications	802, 401, 402 and 403.
36.	Demonstrative Models of the Skull and Brain	Prejudicial, Hearsay, Cumulative, Relevancy, Speculation and Duplications	802, 401, 402 and 403.
37.	“Anatomy of the Brain” Demonstrative Aid	Prejudicial, Hearsay, Cumulative, Relevancy, Speculation and Duplications	802, 401, 402 and 403.
38.	“Neural Pathway” Demonstrative Aid Presentations	Prejudicial, Hearsay, Cumulative, Relevancy, Speculation and Duplications	802, 401, 402 and 403.
39.	Rotational View of Skull and Brain Demonstrative Aid	Prejudicial, Hearsay, Cumulative, Relevancy, Speculation and Duplications	802, 401, 402 and 403.
40.	“Cell Injury Resulting in Cell Death” Demonstrative Aid	Prejudicial, Hearsay, Cumulative, Relevancy, Speculation and Duplications	802, 401, 402 and 403.
41.	“Closed Head Injury” Demonstrative Aid	Prejudicial, Hearsay, Cumulative, Relevancy, Speculation and Duplications	802, 401, 402 and 403.
42.	“Location of Brain and Cranial Nerve Functions” Demonstrative Aid	Prejudicial, Hearsay, Cumulative, Relevancy, Speculation and Duplications	802, 401, 402 and 403.



43.	Axon Damage Demonstrative Aid	Prejudicial, Hearsay, Cumulative, Relevancy, Speculation and Duplications	802, 401, 402 and 403.
44.	Side View of Brain” Demonstrative Aid	Prejudicial, Hearsay, Cumulative, Relevancy, Speculation and Duplications	802, 401, 402 and 403.
45.	Summary of Plaintiff’s Life Care Plan needs and costs.	WITHDRAWN, duplicate to PX: 81	
46.	Summary of Plaintiff’s economic losses.	WITHDRAWN, duplicate to PX: 64	
47.	William Ruwe, Ph.D.’s expert report	Hearsay, Not Best Evidence and Cumulative.	802 and 403.
48.	William Ruwe, Ph.D.’s neuropsychological evaluation of Dea Rosenbaum.	WITHDRAWN, duplicate of PX: 47	
49.	Medical specials for Dea Rosenbaum	Objection. Not Produced	
50.	Medical records from Weatherford Regional Hospital		
51.	Medical records from Dr. Conley at Oklahoma Sports Science and Orthopaedics	Hearsay	802
52.	Community Hospital X-rays and MRI	No Objection, except to redaction of non-privileged information	
53.	Medical records from Dr. Francio at Oklahoma Spinal Surgery and Orthopedics	WITHDRAWN, duplicate PX: 51	
54.	Dea Rosenbaum’s patient transaction report	WITHDRAWN	
55.	Dea Rosenbaum’s Blue Cross / Blue Shield claim form	WITHDRAWN	
56.	Medical records from Dr. Lowrance at the Mercy Clinic	Incomplete and Potentially Misidentified	106
57.	Medical records from Dr. White	WITHDRAWN	
58.	Medical records from Stephanie Taylor & Heather Painter at Midwest Regional Physical Therapy	Hearsay and Cumulative	802 and 403
59.	Medical records from Dr. Miller at the Mercy Clinic	WITHDRAWN	
60.	Medical records from Dr. O’Shanick from the Center for Neurorehabilitation Services	Hearsay and Cumulative	802 and 403
61.	Medical records from Dr. Smith at Physical Medicine and Rehabilitation	WITHDRAWN, duplicate of PX: 79	
62.	Medical records from Dr. Lipton at the Albert Einstein College of Medicine	WITHDRAWN, duplicate of PX: 82	

63.	Medical records from Dr. Wise	Hearsay	802
64.	Expert report from Dr. Clark	Hearsay, Not Best Evidence and Cumulative	802 and 403
65.	Medical records from Dr. Patel	WITHDRAWN	
66.	Medical records from Dr. Pillow	WITHDRAWN	
67.	Medical records from the Oklahoma Hearing Center	WITHDRAWN	
68.	Diagnostic tests from Weatherford Hospital	WITHDRAWN	
69.	Diagnostic tests from Dr. Conley	WITHDRAWN	
70.	Diagnostic tests from Midwest Regional Physical Therapy	WITHDRAWN	
71.	Diagnostic tests from Community Hospital	WITHDRAWN	
72.	Diagnostic tests from the Mercy Clinic	WITHDRAWN	
73.	Diagnostic tests from Mercy Hospital	WITHDRAWN	
74.	Diagnostic tests from Neurorehabilitation Services	WITHDRAWN	
75.	Diagnostic tests from the Albert Einstein College of Medicine	WITHDRAWN	
76.	Diagnostic tests from Select Physical Therapy	WITHDRAWN	
77.	Diagnostic tests from the Oklahoma Hearing Center	WITHDRAWN	
78.	The deposition transcript of Dr. O'Shanick	Inappropriate Exhibit	
79.	Rule 26 report of Dr. Smith	Hearsay, Not Best Evidence and Cumulative	802 and 403
80.	Rule 26 report of Dr. Conley	Hearsay, Not Best Evidence and Cumulative	802 and 403
81.	Rule 26 report from Lon Huff	Hearsay, Not Best Evidence and Cumulative	802 and 403
82.	Medical records from Montefiore Medical Center		
83.	Deposition transcript and Exhibits of Nina Holmes Exhibit 1 PX83-0021/PX83-0022 Exhibit 2 PX83-0023/PX83-0024 Exhibit 3 PX83-0025/PX83-0026 Exhibit 4 PX83-0027/PX83-0028	Hearsay	802
84.	Deposition transcripts of Charles Haffenden (Defendants' 30 (b) (6) witness)	Inappropriate Exhibit	
85.	Charles Hitchcock's phone records	Hearsay, Relevancy, Not Previously Produced and Prejudicial.	802, 401, 402 and 403.
86.	Oklahoma Department of Transportation documents, records, photos of the repair of the bridge damaged by the vehicles in this wreck.(Will be Supplemented upon	Not Produced, Relevance, Hearsay and	802, 401, 402 and 403.

	the return of Plaintiff's Subpoena Duces Tecum)	Prejudicial.	
87.	Oklahoma Highway Patrol Dashcam	Relevancy, Prejudicial, Subject to Motion in Limine.	401, 402 and 403.
88.	Oklahoma Highway Patrol response to Plaintiff's Subpoena Duces Tecum	Objection. Not Produced	
89.	Before and after photos of Plaintiff Dea Rosenbaum	Cumulative, Relevancy and Not Properly Identified.	401, 402 and 403.
90.	All photos of the scene taken after the collision	Cumulative, Relevancy, Prejudicial and Hearsay.	802, 401, 402 and 403.
91.	Photos and video taken by Trooper Haney	WITHDRAWN	
92.	Photos taken by Larry Rosenbaum	Cumulative, Relevancy, Prejudicial and Hearsay.	802, 401, 402, and 403
93.	Photos taken by Nina Holmes	Cumulative, Relevancy, Prejudicial and Hearsay	802, 401, 402, and 403
94.	Photos taken by Ron Blevins	Cumulative, Relevancy, Prejudicial and Hearsay	802, 401, 402, and 403
<b>EXHIBITS PLAINTIFF MAY USE IF THE NEED ARISES</b>			
95.	CRST 0000173-0000188: Maintenance Equipment History for Tractor and Trailer	Relevancy, Hearsay and Prejudicial	802, 401, 402, and 403
96.	CRST 000189-000214: Defendant Hitchcock's medical information	Relevancy, Hearsay, Prejudicial and Subject to Motion in Limine.	802, 401, 402, and 403
97.	CRST 000594-000598: Driver Inquiry Personnel	Relevancy, Hearsay, Prejudicial and Subject to Motion in Limine.	802, 401, 402, and 403
98.	CRST 000602-000672: Driver application/qualification file	Relevancy, Hearsay, Prejudicial and Subject to Motion in Limine.	802, 401, 402, and 403
99.	CRST 000673-000694: Drive application/qualification file	Relevancy, Hearsay, Prejudicial and Subject to Motion in Limine.	802, 401, 402, and 403

100.	CRST 000717-000747: Driver Log for Defendant Hitchcock	Relevancy, Hearsay, Prejudicial and Subject to Motion in Limine.	802, 401, 402, and 403
101.	CRST 000751-000756: QTRACS Message Directory Listing	Relevancy, Hearsay, Prejudicial and Subject to Motion in Limine.	802, 401, 402, and 403
102.	CRST 000757: Citation given to Defendant Hitchcock	Relevancy, Hearsay, Prejudicial and Subject to Motion in Limine.	802, 401, 402, and 403
103.	CRST 000758-000761: State of Oklahoma v. Charles Hitchcock TR-2014-3458 Docket Sheet	Relevancy, Hearsay, Prejudicial and Subject to Motion in Limine.	802, 401, 402, and 403
104.	CRST 000766-000815: GPS Coordinates for Hitchcock's tractor and trailer	Relevancy, Hearsay, Prejudicial and Subject to Motion in Limine.	802, 401, 402, and 403
105.	Deposition transcript of Charles Hitchcock	Hearsay, Not Best Evidence and Improper Exhibit.	802
106.	Deposition transcript of Nat Tull	WITHDRAWN	
107.	Expert witness deposition transcripts	Hearsay, Not Best Evidence and Improper Exhibit.	802
108.	Defense expert's entire file, including but not limited to curriculum vitae, licensure file, fee schedule, any and all material reviewed, reports generated, research relied upon and videos of Defense Medical Examination of Plaintiff, if not otherwise objected to by the Plaintiff.	Hearsay, Not Best Evidence, Improper Exhibit and Cumulative.	802 and 403
109.	All exhibits produced through discovery and/or subpoenas not otherwise objected by Plaintiff.	WITHDRAWN	
110.	Pleadings filed by any party, to include responses to discovery requests.	WITHDRAWN	
111.	All exhibits listed by the Defendant not otherwise objected to by Plaintiff.	WITHDRAWN	
112.	Any and all documents regarding the investigation of the collision by Defendants or any representative of Defendants.	WITHDRAWN	
113.	Any other exhibit the identity or importance of which is discovered in the process of discovery in this case, which is ongoing.	WITHDRAWN	
114.	Any other exhibit, which in the interest of justice, should be offered as an exhibit for the jury at the trial	WITHDRAWN	

	of this matter.	
115.	Plaintiff reserves the right to amend and supplement as discovery continues.	WITHDRAWN

B. Defendant:

<b>No.</b>	<b><u>DESCRIPTION</u></b>	<b><u>OBJECTION</u></b>	<b><u>FEDERAL RULE OF EVIDENCE REL IED UPON</u></b>
1.	CRST 000001-000005 First Investigation Report		
2.	CRST 000009 Diagram on Official Oklahoma Traffic Collision Report #AR01095-14		
3.	CRST 000034-000035 Charles Hitchcock's Driver's License	Relevancy and Hearsay	FRE 401, 402,403; FRE 801, 802 803
4.	CRST 000037-CRST 000038, CRST 000051 Photographs of the bridge	Relevancy and Hearsay	FRE 401, 402,403; FRE 801, 802 803
5.	CRST 000173-000188 Maintenance Equipment History Report for Tractor 676M and Trailer 306316 from July 17, 2013 to July 17, 2014		
6.	CRST 000189-000214 Charles Hitchcock's drug and physical tests		
7.	CRST 000266-000593 CRST's Driver Handbook		
8.	CRST 000594-000598 Charles Hitchcock's CRST Driver Maintenance File		
9.	CRST 000602-000672 Charles Hitchcock's Employee File		
10.	CRST 000673-000694 Charles Hitchcock's Application		
11.	CRST 000717-000747 Charles Hitchcock's Pre-and Post-Audit Logs		
12.	CRST 000762-000764 CRST's cargo slip/bill of lading	Relevancy and Hearsay	FRE 401, 402,403; FRE 801, 802 803
13.	CRST 000765 Dea Rosenbaum's Recorded Statement	Hearsay and Not a proper exhibit	FRE 801, 802, 803
14.	CRST 000766-000815 Charles Hitchcock's GPS log between 5/25/2014 to 7/23/2014		
15.	CRST 000874-000888 Medical records and bills from Trevor White, D.O.		
16.	CRST 000889-000899 Medical records from Weatherford Regional Hospital		
17.	CRST 000900-000959 Medical records from Community Hospital		
18.	CRST 000960-000965 Medical records from		

	Montefiore University Hospital i.e. DTI MRI		
19.	CRST 000966-000967 Mustang Pro Lube's Responses to Subpoena Duces Tecum	Relevancy and Hearsay	FRE 401, 402,403; FRE 801, 802 803
20.	CRST 000968-000984 Little Caesars Pizza's Responses to Subpoena Duces Tecum	Relevancy and Hearsay	FRE 401, 402,403; FRE 801, 802 803
21.	CRST 000985-000995 Qualcomm Event Report		
22.	CRST 000996-001037 Union City High School Responses to Subpoena Duces Tecum	Relevancy and Hearsay	FRE 401,402,403; FRE 801, 802, 803
23.	CRST 001038-001095 AT&T Responses to Subpoena Duces Tecum	Relevancy and Hearsay	FRE 401,402,403; FRE 801, 802, 803
24.	CRST 001103-001168 Medical records and bills from Dr. Arthur Conley/OSSO and Dr. Vinicus Francio, chiropractic physician		
25.	CRST 001170-001331 Medical records from Dr. Richard Lowrance		
26.	CRST 001332-001333 Medical record from Mercy Hospital El Reno		
27.	Any and all records from Geary Fire Department	WITHDRAWN	
28.	Any and all records from Hinton Police & Fire Department	WITHDRAWN	
29.	Any and all records from Parkview EMS Hinton	WITHDRAWN	
30.	Any and all records from Caddo County Sheriff's Department	WITHDRAWN	
31.	Any and all records from Calvin Wrecker Services	Hearsay	FRE 801, 802, 803
32.	Plaintiff's medical records and bills from Dr. Doris Wise	Relevancy and Hearsay	FRE 401,402,403; FRE 801, 802, 803
33.	Plaintiff's medical records and bills from Dr. Anil Patel/Dean McGee	Relevancy and Hearsay	FRE 401,402,403; FRE 801, 802, 803
34.	Plaintiff's medical records and bills from Dr. Jonathan Pillow	WITHDRAWN	
35.	Plaintiff's medical records and bills from Oklahoma Hearing Center	WITHDRAWN	
36.	Plaintiff's medical records and bills from Select Physical Therapy	WITHDRAWN	
37.	Plaintiff's medical records and bills from Dr. Ram Singh/St. Anthony	WITHDRAWN	
38.	Any and all of Dea Rosenbaum's diagnostic testing, medical records	Relevancy and Hearsay	FRE 401,402,403; FRE 801, 802, 803
39.	Defendants' Expert File of David E. Johnsen, M.D.	Relevancy and Hearsay	FRE 401,402,403; FRE 801, 802, 803
40.	Defendants' Expert File of Dennis E. Foster, M.D.	Relevancy and Hearsay	FRE 401,402,403; FRE 801, 802, 803
41.	Defendants' Expert File of Christy V. Wilson Adkins	Relevancy and Hearsay	FRE 401,402,403; FRE 801, 802, 803

42.	Defendants' Expert File of Mark W. Sexton including exhibits to Expert report	Relevancy and Hearsay	FRE 401,402,403; FRE 801, 802, 803
43.	2011 Tax Returns – Little Caesars	Relevancy and Hearsay	FRE 401,402,403; FRE 801, 802, 803
44.	2014 Tax Returns – Sonic	Relevancy and Hearsay	FRE 401,402,403; FRE 801, 802, 803
45.	2014 Sonic W2	Relevancy and Hearsay	FRE 401,402,403; FRE 801, 802, 803
46.	Gregory O'Shanick, MD's file to include questionnaire	Relevancy and Hearsay	FRE 401,402,403; FRE 801, 802, 803
47.	William D. Ruwe, Psy.D, Ph.D's hard data test results for all tests he administered to Plaintiff	Relevancy and Hearsay	FRE 401,402,403; FRE 801, 802, 803
48.	Exhibit 5 to Ronald Blevins' deposition		
49.	Dea Rosenbaum and Dea "Terry" Facebook, MySpace, Twitter and any other social media	Relevancy and Hearsay	FRE 401,402,403; FRE 801, 802, 803
50.	Aerial of the accident location	Relevancy, Hearsay not a proper exhibit	FRE 401,402,403; FRE 801, 802, 803
51.	Demonstrative Aids and relevant medical journals, treatises, studies and articles as to all of Plaintiff's complaints	Relevancy and Hearsay	FRE 401,402,403; FRE 801, 802, 803
52.	CRST 0002255 – BVA medical record	Relevancy and Hearsay	FRE 401,402,403; FRE 801, 802, 803
53.	Any and all documents produced in discovery not objected to by Defendant	WITHDRAWN	
54.	Any and all exhibits identified as discovery progresses unless objected to by Defendant	WITHDRAWN	

7. WITNESSES: The following exclusionary language **MUST** be included:

Unlisted witnesses in chief will not be permitted to testify unless, by order of the court, the final pretrial order is amended to include them.

A. Plaintiff:

NO.	WITNESS	ADDRESS	EXPECTED TESTIMONY
<b>WITNESSES EXPECTED TO BE CALLED</b>			
1.	Dea L. Rosenbaum	c/o Cain Law Office P.O. Box 892098 Oklahoma City, OK 73189	Will testify about her education and other relevant background; difference in her condition before and after the wreck; employment history; facts of the wreck; her injuries.
2.	Charles Hitchcock	c/o Robert Todd Goolsby, 701 N. Broadway, Suite 400 Oklahoma City, Oklahoma 73102	Will testify regarding his knowledge of the facts and circumstances of the wreck and his conversations with OHP Trooper Haney.

3.	Nina Holmes (Witness)	225 Pine Brae Rd. Old Fort, NC 28762	Will testify regarding her knowledge of the facts and circumstances of the incident. Ms. Holmes will testify via video deposition.
4.	Larry Rosenbaum (Dad)	16830 Hoss Circle El Reno, OK 73036	Will testify regarding his knowledge of the facts and circumstances of the wreck; injuries to Dea Rosenbaum; the difference between Dea before and after the wreck.
5.	Brenda Brady (Mom)	111 Walnut Ave. Yukon, OK 73099	Will testify regarding his knowledge of the facts and circumstances of the wreck; injuries to Dea Rosenbaum; the difference between Dea before and after the wreck.
6.	Ronnie Rosenbaum (Brother)	16830 Hoss Circle El Reno, OK 73036	Will testify regarding his knowledge of the facts and circumstances of the wreck; injuries to Dea Rosenbaum; the difference between Dea before and after the wreck.
7.	Steven Terry	811 S. Roberts Ave. El Reno, Ok 73036	Testify about the Plaintiff's physical condition before and after the accident.
8.	Dr. Arthur Conley	3110 SW 89 <sup>th</sup> , Suite 200E Oklahoma City, OK 73159	Will testify regarding care and treatment of Plaintiff; diagnosis; examination and findings; prognosis; future medical care; nature and extent and permanency of injuries; all matters in his deposition and Rule 26 report.
9.	Doris Wise, Ph.D	3441 W. Memorial Rd. #7 Oklahoma City, OK 73134	Will testify regarding care and treatment of Plaintiff; diagnosis; examination and findings; prognosis; future medical care; nature and extent and permanency of injuries;
10.	Trooper Sean Haney Badge No. 291	Oklahoma Highway Patrol Troop A 2480 SW 74 <sup>th</sup> Street Oklahoma City, OK 73159	Will testify regarding his investigation of the wreck; his conversations with Charles Hitchcock; will sponsor his diagram of the scene of the wreck and the dashcam video of his investigation.
11.	Ron Blevins	Blevins Enterprises 11201 S. Council Rd. Oklahoma City, OK 73173	Accident reconstruction expert; will testify about the speed of Hitchcock truck; actions taken by Hitchcock before the wreck; interpretation of vehicle data provided by Defendants; all matters covered in his Rule 26 report and his deposition.
12.	Dr. Gregory O'Shanick, M.D.	Center for Neurorehabilitation Services 7401 Beaufont Springs Dr.,	Treating neuropsychiatrist and expert witness. Dr. O'Shanick will testify about the cause, nature and extent of



		Suite 205 Richmond, VA 23225	Dea Rosenbaum's traumatic brain injury; diagnosis; prognosis for the future; future medical care; all aspects of traumatic brain injury; employability of Dea Rosenbaum; all matters covered in his Rule 26 report and deposition.
13.	Dr. William D. Ruwe, Psy.D., Ph.D	NeuroResources 3441 W. Memorial Rd., Suite 7, Oklahoma City, OK 73134	Expert witness. Neuropsychologist. Will testify about his evaluation of Dea Rosenbaum; testing done; results of tests; findings regarding traumatic brain injury; degree of impairment; cause, nature and extent of traumatic brain injury; recommendations for future medical treatment. All matters covered in his Rule 26 report and deposition.
14.	Dr. Shawn Smith, M.D.	Jim Thorpe Rehabilitation 5100 N. Brookline Ave., # 500 Oklahoma City, OK 73112	Expert medical witness; Will testify about his evaluation of Dea Rosenbaum; findings regarding traumatic brain injury and other injuries; degree of impairment; cause, nature and extent of traumatic brain injury and other injuries; recommendations for future medical treatment. Whether Dea Rosenbaum can work. All matters covered in his Rule 26 report and deposition.
15.	Lon Huff, M.S., C.R.C., C.D.M.S.	LDH Consultants 3233 E. Memorial Rd., Edmond, OK 73013	Expert vocational rehabilitation expert and life care planner; Will offer opinions regarding Dea Rosenbaum's injuries and the effects that they will have on her ability to work in the future; future medical costs. All matters covered in his Rule 26 report and deposition.
16.	Dr. William Clark, Ph.D.	1830 Coventry Lane Oklahoma City, OK 73120	Expert economist. Will testify about the present value of Dea Rosenbaum's future medical expenses and impairment to earning capacity.
17.	Charles Haffenden	c/o Robert Todd Goolsby, 701 N. Broadway, Suite 400 Oklahoma City, Oklahoma 73102	CRST designated 30 (b)(6) witness; will testify about policies and procedures of company, investigation of wreck, preventability determination and findings that Defendant Hitchcock was at fault.
<b>WITNESSES THAT MAY BE CALLED IF THE NEED ARISES</b>			
18.	Dawn Karlin	10135 Old 66 Rd. Hydro, OK 73048	Testify about the Plaintiff's physical condition before and after the

			accident.
19.	John Karlin	10135 Old 66 Rd. Hydro, OK 73048	Testify about the Plaintiff's physical condition before and after the accident.
20.	Trevor White, O.D.	100 N. Choctaw El Reno, OK 73036	Will testify regarding care and treatment of Plaintiff.
21.	Donald Woolfolk	216-882-9775 Address: Unkown	Will testify regarding his knowledge of the facts and circumstances of the incident.
22.	Lisa Seipel	c/o Robert Todd Goolsby, 701 N. Broadway, Suite 400 Oklahoma City, Oklahoma 73102	Will testify regarding her knowledge of the facts and circumstances of the incident.
23.	Dr. Richard Lowrance	605 SW 27 <sup>th</sup> St. El Reno, OK 73036	Will testify regarding care and treatment of Plaintiff.
24.	Bryan Albrecht	Calvin Wrecker Services 312 W. Woodson St. El Reno, OK 73036	Will testify regarding his knowledge of the facts and circumstances of the incident.
25.	Nat Tull	423-252-9556 Address: Unknown	Will testify regarding his knowledge of the facts and circumstances of the incident.
26.	Dr. Doris Wise	3441 W. Memorial Rdl, #7 Oklahoma City, OK 73134	Will testify regarding care and treatment of Plaintiff.
27.	Dr. Anil Patel	608 Stanton L. Blvd. Oklahoma City, OK 73104	Will testify regarding care and treatment of Plaintiff.
28.	Dr. Jonathan Pillow	Fisher Hall, 3824 South Blvd., #160 Edmond, OK 73013	Will testify regarding care and treatment of Plaintiff.
29.	Oklahoma Hearing Center	3048 SW 89 <sup>th</sup> St. Suite B Oklahoma City, OK 73159	Will testify regarding care and treatment of Plaintiff.
30.	Rock Wegmann	c/o Robert Todd Goolsby, 701 N. Broadway, Suite 400 Oklahoma City, Oklahoma 73102	Will testify regarding his knowledge of the facts and circumstances of the incident.
31.	Charles Haffenden	c/o Robert Todd Goolsby, 701 N. Broadway, Suite 400 Oklahoma City, Oklahoma 73102	Will testify regarding his knowledge of the facts and circumstances of the incident.
32.	Tony Spencer	405-437-6544	Testify about the Plaintiff's physical condition before and after the accident.
33.	Geary Fire Department Firefighters who responded to the scene.	118 NW 1 <sup>st</sup> St. Geary, OK 73040	Will testify regarding their knowledge of the facts and circumstances of the incident.
34.	Myisha Schoolcraft	405-439-8350	Testify about the Plaintiff's physical condition before and after the accident.

35.	Edner Valencia	405-406-5967	Testify about the Plaintiff's physical condition before and after the accident.
36.	Plaintiff reserves the right to supplement witness list, as discovery is ongoing.		

## B. Defendant:

	<u><b>WITNESS</b></u>	<u><b>SUMMARY OF TESTIMONY</b></u>	<u><b>EXPECTED TO TESTIFY</b></u>
1.	Dea L. Rosenbaum c/o Cain Law Office PO BOX 892098 Oklahoma City, OK 73189	Deposed.	To be called.
2.	Charles Hitchcock c/o Goolsby, Proctor, Heefner & Gibbs 701 N. Broadway, Suite 400 Oklahoma City, OK 73102	Deposed.	To be called.
3.	Donald Woolfolk 13301 6 <sup>th</sup> Avenue E. Cleveland, OH 44112 (216) 882-9775	Testify to the facts and circumstances regarding the accident.	May be called if the need arises.
4.	Nina Holmes 225 Pine Brae Road Old Fort, NC 28762 (828) 442-2490	Deposed.	To be called.
5.	Nat Tull Address Unknown (423) 252-9556	Testify to his knowledge about the facts and circumstances regarding the accident.	May be called if the need arises and if found.
6.	Hinton Fire Department Firefighter 115 S. Broadway Avenue Hinton, OK 73047	Alleged firefighter, identified by Plaintiff, who allegedly spoke to Defendant Hitchcock and who will testify to the facts and circumstances regarding the accident.	May be called if the need arises.
7.	Geary Fire Department Chief Choate 118 NW 1 <sup>st</sup> Street Geary, OK 73040	Alleged firefighters, identified by Plaintiff, whom responded to the scene and whom will testify to the facts and circumstances regarding the accident.	May be called if the need arises.
8.	Bryan Albrecht Calvin Wrecker SERvices 312 W. Woodson Street El Reno, OK 73036	Testify to his knowledge about the facts and circumstances regarding the accident.	May be called if the need arises.

9.	Larry Rosenbaum (dad) 16830 Hoss Circle El Reno, OK 73036	Deposed.	May be called if the need arises.
10.	Brenda Brady (mom) 111 Walnut Avenue Yukon, OK 73099	Deposed.	May be called if the need arises.
11.	Ronnie Rosenbaum (brother) 16830 Hoss Circle El Reno, OK 73036	Deposed.	May be called if the need arises.
12.	Tony Spencer Address Unknown (405) 437-6544	Deposed.	May be called if the need arises.
13.	Steven Terry 811 S. Roberts Avenue El Reno, OK 73036	Deposed.	May be called if the need arises.
14.	Dawn Karlin 10135 Old 66 Road Hydro, OK 73048	Witness, identified by Plaintiff, who will testify about the Plaintiff's physical condition before and after the accident.	To be called.
15.	John Karlin 10135 Old 66 Road Hydro, OK 73048	Witness, identified by Plaintiff, who will testify about the Plaintiff's physical condition before and after the accident.	To be called.
16.	Ryan Patrick Mills 10135 Old 66 <sup>th</sup> Road Hydro, OK 73048	Witness who will testify about the Plaintiff's physical condition before the accident.	May be called if the need arises.
17.	Melinda "Shannon" Beck PO BOX 332 Wheeler, T X 580-374-7002	Witness who will testify about the Plaintiff's physical condition before and after the accident.	May be called if the need arises.
18.	Myisha Schoolcraft (405) 439-8350	Witness, identified by Plaintiff, who will testify about the Plaintiff's physical condition before and after the accident.	May be called if the need arises.
19.	Edner Valencia (405) 406-5967	Witness, identified by Plaintiff, who will testify about the Plaintiff's physical condition before and after the accident.	May be called if the need arises.
20.	Arthur H. Conley, M.D. 3110 SW 89 <sup>th</sup> Street, Suite 200E Oklahoma City, OK 73159	Will testify regarding treatment and care of Plaintiff and authentication of documents if not previously stipulated to	To be called.
21.	Dr. Vinicius Francio Chiropractic Physician 3110 SW 89 <sup>th</sup> Street, Suite 200E Oklahoma City, OK 73159	Treatment and care of Plaintiff and authentication of documents if not previously stipulated to	May be called if the need arises
22.	Mike Pflughoft, PA	Treatment and care of Plaintiff and	May be called if

	3110 SW 89 <sup>th</sup> Street, Suite 200E Oklahoma City, OK 73159	authentication of documents if not previously stipulated to	the need arises
23.	Trevor White, O.D. 100 N. Choctaw El Reno, OK 73036	Treatment and care of Plaintiff and authentication of documents if not previously stipulated to	May be called if the need arises
24.	Dr. Richard Lowrance 605 SW 27 <sup>th</sup> Street El Reno, OK 73036	Treatment and care of Plaintiff and authentication of documents if not previously stipulated to	May be called if the need arises
25.	Dr. Doris Wise 3441 W. Memorial Road 7 Oklahoma City, OK 73134	Treatment and care of Plaintiff and authentication of documents if not previously stipulated to	May be called if the need arises
26.	Dr. Anil Patel Dean McGee Eye Institute 608 Stanton L. Young Blvd. Oklahoma City, OK 73104-5065	Treatment and care of Plaintiff and authentication of documents if not previously stipulated to	May be called if the need arises
27.	Representative and/or Record Custodian of Weatherford Regional Hospital 3701 East Main Street Weatherford, OK 73096	Treatment and care of Plaintiff and authentication of documents if not previously stipulated to	May be called if the need arises
28.	Representative and/or Record Custodian of Community Hospital 3100 SW 89th Oklahoma City, OK 7315	Treatment and care of Plaintiff and authentication of documents if not previously stipulated to	May be called if the need arises
29.	Representative and/or Record Custodian of Regional Physical Therapy 9309 East Reno Avenue Midwest City, OK 73130	Treatment and care of Plaintiff and authentication of documents if not previously stipulated to	May be called if the need arises
30.	Representative and/or Record Custodian of Mercy Hospital El Reno 2115 Parkview Drive El Reno, OK 73036	Treatment and care of Plaintiff and authentication of documents if not previously stipulated to	May be called if the need arises
31.	Representative and/or Record Custodian of Diagnostic Imaging PO BOX 96846 Oklahoma City, OK 73143	Treatment and care of Plaintiff and authentication of documents if not previously stipulated to	May be called if the need arises
32.	Representative and/or Record Custodian of Montefiore University Hospital 111 East 210th Street Bronx, NY 10467	Treatment and care of Plaintiff and authentication of documents if not previously stipulated to	May be called if the need arises
33.	Representative and/or Record Custodian of Select Physical Therapy 1300 S. Country Club El Reno, OK	Treatment and care of Plaintiff and authentication of documents if not previously stipulated to	May be called if the need arises
34.	Dr. Ram Singh	Treatment and care of Plaintiff and	May be called if

	St. Anthony 13500 S. Tulsa Dr. Ste 200 Oklahoma City, OK 73170	authentication of documents if not previously stipulated to	the need arises
35.	Dr. Larry Henry BVA Advanced Eye Care 14701 N Santa Fe Ave, Edmond, OK 73013	Treatment and care of Plaintiff and authentication of documents if not previously stipulated to	May be called if the need arises
36.	Charles Haffenden c/o Goolsby, Proctor, Heefner & Gibbs 701 N. Broadway, Suite 400 Oklahoma City, OK 73102	Deposed.	May be called if the need arises.
37.	David Johnsen, M.D. 2601 NW Expressway, Ste. 410 W Oklahoma City OK 73112 (405) 755-8576	Deposed.	To be called.
38.	Dennis E. Foster, M.D. 3130 SW 89 <sup>th</sup> Street, Ste. 100 Oklahoma City, OK 73159 (405) 378-44722	Will testify to his review of Plaintiff's medical records, evaluation of evidence and conclusions to the nature of Plaintiff's alleged injury claims. A report from Dr. Foster has been provided to all Counsel for Plaintiff.	To be called.
39.	Christy V. Wilson-Adkins, LCSW, CDMS, CRC Working Rehabilitation Solutions, PC PO BOX 745 Edmond, OK 73083 (405) 330-9291	Will testify to her evaluation of Plaintiff, review of evidence, review of Plaintiff's expert reports and evaluation of future medical, rehabilitative and adaptive need and expenses as to same. A report from Ms. Wilson-Adkins has been provided to all Counsel for Plaintiff.	To be called.
40.	Mark Sexton Crash Science and Investigation Inc. 2759 Azalea NE Cashion, OK 73016 (405) 373-2927	Deposed.	To be called.
41.	Any and all witnesses identified as discovery progresses not otherwise objected to by Defendant		
42.	Any and all witnesses deposed or to be deposed in this matter not otherwise objected to by Defendant		

8. ESTIMATED TIME OF TRIAL

C. Plaintiff's Case: 3-4 days

D. Defendant's Case: 1-1 1/2

9. BIFURCATION REQUESTED: Yes \_\_\_\_\_ No ☒

10. POSSIBILITY OF SETTLEMENT:

Good \_\_\_\_\_ Fair \_\_\_\_\_ Poor ☒ X \_\_\_\_\_

All parties approve this report and understand and agree that this report supersedes all pleadings, shall govern the conduct of the trial, and shall not be amended except by order of the court.

/s/ Monty L. Cain

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